

Message Text

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PAGE 01 BUDAPE 02547 261646Z
ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 STR-07 L-03 H-01 /032 W
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P R 261221Z JUN 78
FM AMEMBASSY BUDAPEST
TO SECSTATE WASHDC PRIORITY 1797
INFO USDOC WASHDC

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C O R R E C T E D C O P Y (TEXT)

E.O.11652: N/A
TAGS: EEWT, HU, US
SUBJECT: NATIONAL AGRICULTURAL CHEMICALS ASSN PATENT COMPLAINT
AGAINST HUNGARY

REF: A) STATE 160789, B) STATE 156979

1. EMBASSY HAS NO RECORD OF NACA PATENT COMPLAINT AGAINST
HUNGARIAN PHARMACEUTICAL AND CHEMICAL MANUFACTURING
ENTERPRISES. ONLY SUCH PROBLEM OF WHICH EMBASSY IS AWARE
IS MONSANTO'S APPLICATION FOR INDUSTRIAL PROPERTY RIGHTS
COVERING "ROUNDUP (GLYPHOSPHATE)". MATTER IS NOW UNDER
DISCUSSION BETWEEN MONSANTO EXECUTIVES AND PRESIDENT OF
HUNGARIAN CHAMBER OF COMMERCE. REPEATED BELOW FOR
DEPARTMENT'S INFORMATION IS JUNE 6TH LETTER FROM C. PRESTON
CUNNINGHAM, CHAIRMAN OF BOARD, MONSANTO, TO THE AMBASSADOR
MENTIONING STATUS OF THESE TALKS:
BEGIN TEXT:

A. A. DURING MY VISIT IN BUDAPEST AND AGAIN IN MY LETTER TO
YOU DATED APRIL 5, 1978, I PROMISED TO KEEP YOU AWARE OF
ANY DEVELOPMENTS IN THE RELATIONS BETWEEN MONSANTO AND HUNGARY.

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PAGE 02 BUDAPE 02547 261646Z

B. WE ARE GLAD TO INFORM YOU THAT THE PROTOCOL OF
COOPERATION BETWEEN THE HUNGARIAN CHAMBER OF COMMERCE AND
MONSANTO WAS DULY SIGNED AND EXECUTED ON MAY 13. A COPY

IS ATTACHED FOR YOUR INFORMATION.

C. AS FOR THE SPECIFIC ISSUE INVOLVING POTENTIAL
INFRINGEMENT OF MONSANTO'S INDUSTRIAL PROPERTY RIGHTS

COVERING OUR PRODUCT ROUNDUP (MONSANTO TRADE MARK)
(GLYPHOSATE), OUR PEOPLE HAVE HAD SEVERAL EXCHANGES WITH
MR. O. KALLOS AS WELL AS MR. J. LAKOS (OFFICE OF THE
COMMERCIAL COUNSELLOR NEW YORK) ATTEMPTING TO CLARIFY THE
RESPECTIVE POSITIONS.

D. WE ARE PRESENTLY PLANNING FOR A MONSANTO TEAM,
COMPOSED OF SEVERAL DEVELOPMENT AND COMMERCIAL ELEMENTS,
TO VISIT HUNGARY THE WEEK OF JUNE 26TH.

E. WE WILL ENDEAVOUR TO KEEP YOU INFORMED OF ANY
DEVELOPMENTS. REGARDS, /S/ C. PRESTON CUNNINGHAM.

END TEXT

2. MONSANTO HAS KEPT THE EMBASSY GENERALLY INFORMED OF
ITS DISCUSSIONS WITH THE GOH. WE EXPECT THAT MONSANTO WILL
ALSO REPORT THE RESULTS OF THIS WEEK'S MEETINGS WITH GOH.
EMBASSY HAS DEFINITE IMPRESSION, THOUGH, THAT BOTH GOH AND
MONSANTO PREFER TO RESOLVE THIS PATENT INFRINGEMENT PROBLEM
PRIVATELY ON COMMERCIAL BASES. THEREFORE IT SEEMS UNLIKELY
THAT PATENT COMPLAINT IN REFEELS WAS RAISED BY MONSANTO,
UNLESS THERE WERE MORE RECENT DEVELOPMENTS ABOUT WHICH WE
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PAGE 03 BUDAPE 02547 261646Z

WERE NOT INFORMED. EMBASSY WOULD APPRECIATE ANY ADDITIONAL
DETAILS DEPARTMENT MIGHT PROVIDE ON THIS MATTER. WE WILL
REPORT TO DEPARTMENT ANY INFORMATION WE MAY RECEIVE ON THE
PROGRESS OF MONSANTO'S DISCUSSIONS.

3. THERE HAS BEEN A HISTORY OF SPORADIC PATENT INFRINGEMENT
COMPLAINTS FROM WESTERN FIRMS AGAINST HUNGARIAN ENTERPRISES.
WE BELIEVE THESE AROSE IN PART BECAUSE THE HUNGARIAN
CHEMICAL INDUSTRY HAS BEEN SLATED FOR INTENSIVE DEVELOPMENT
AND HUNGARY EXPECTS TO EXPORT ITS PRODUCTS TO THE WEST. AS
A RESULT HUNGARIAN CHEMICAL AND PHARMACEUTICAL MANUFACTURERS
HAVE PURSUED AGGRESSIVE MARKETING STRATEGIES IN THE WEST.
PATENT COMPLAINTS AROSE ALSO AS A RESULT OF THE DIFFERENCES
IN HUNGARIAN AND U.S. PATENT LAWS. UNDER U.S. LAW, ONE
MAY PATENT A PRODUCT; UNDER HUNGARIAN LAW ONE MAY PATENT A
PROCESS. IF ONE DERIVES THE SAME PRODUCT WHICH SOMEONE
ELSE HAS FORMULATED BUT BY A DIFFERENT PROCESS, UNDER
HUNGARIAN LAW, THE NEW PROCESS MAY BE PATENTED AND PRODUCT
MAY BE LEGALLY MARKETED. THESE DIFFICULTIES ARE MADE MORE
COMPLICATED BY THE VERY NATURE OF CHEMICAL AND PHARMACEUTICAL
PRODUCTS AND PROCESSES.

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